



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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JUN 24 2005

4APT-APB

Art Williams, Director  
Air Pollution Control District of Jefferson Co.  
850 Barrett Avenue, Suite 200  
Louisville, Kentucky 40204

Dear Mr. Williams:

This correspondence is being sent to provide you with an official final copy of the Environmental Protection Agency (EPA) Region 4 report, which was completed as a result of the EPA Title V and New Source Review (NSR) program evaluation conducted on March 11-12, 2005 and March 15-16, 2005. The purpose of this program review was to evaluate the status and the ability of the Louisville Metro Air Pollution Control District (LMAPCD) to carry out the duties and responsibilities required to effectively run the Title V and NSR programs, as well as find out how EPA can best assist the LMAPCD in meeting these commitments.

I would like to thank you and your staff for your cooperation throughout the evaluation. Your staff responded to the questionnaires and provided all requested material in a timely and professional manner. As a result of this evaluation, a number of areas of concern were noted. While this reports details EPA's findings, EPA will provide to you in a separate correspondence the specific areas of concern that must be addressed. We look forward to working with you in ensuring that these areas of concern are adequately addressed.

If you or your staff have any questions regarding the report, please do not hesitate to contact Randy Terry of the EPA Region 4 staff at (404) 562-9032.

Sincerely,

Beverly H. Banister  
Director  
Air. Pesticides and Toxics  
Management Division

Enclosure



## **Louisville Metro Air Pollution Control District Title V and New Source Review Program Review**

The U.S. Environmental Protection Agency (EPA) Region 4 committed to conduct detailed Title V and New Source Review (NSR) program reviews for all state and local programs that have at least ten title V major sources within their jurisdiction. These evaluations also include a review of the title V fees collected and billed annually. This commitment results from an agreement between the EPA Office of Air and Radiation and the EPA Office of Inspector General, which required EPA to conduct title V program evaluations of all state and local programs. EPA Region 4 decided, in addition to title V, to use this opportunity, when applicable, to evaluate the NSR programs at each of the state and local programs. The program reviews are to be completed by the end of Fiscal Year 2006. The Louisville Metro Air Pollution Control District (LMAPCD) program review was conducted the dates of March 11-12, 2005 and March 15-16, 2005 in Louisville, Kentucky. Prior to arrival at the Louisville office, EPA emailed a list of 10 title V sources to LMAPCD that EPA planned to review as part of the overall program review. Upon EPA's arrival at LMAPCD, EPA spent the first day discussing the title V questionnaire with LMAPCD staff. The following day was allocated to reviewing the permit files. The following parties attended the initial meeting: Randy Terry (EPA Region 4), Art Hofmeister (EPA Region 4), Steve Thomas (LMAPCD), Eva Addison (LMAPCD) and Jess Goldsmith (LMAPCD).

# **Louisville Title V Program Review**

## **1. Program Review**

LMAPCD's organizational structure for air permitting resides at the office in Louisville, Kentucky. All title V permits for the Jefferson County area are processed in the Louisville office. LMAPCD's title V permitting jurisdiction covers all of Jefferson County. The Commonwealth of Kentucky operates the permitting agency that covers the remainder of Kentucky.

The headings in the title V portion of this report duplicate the headings in the title V program review questionnaire administered during the visit.

EPA appreciated LMAPCD's efforts to aid the evaluation process by providing an answered copy of the program review questionnaire prior to the meeting. For many questionnaire items, the answers provided by LMAPCD are more detailed than indicated in the summary discussion below. The answered questionnaire from LMAPCD will be on file at EPA Region 4 for reference.

### **A. Title V Permit Preparation and Content**

During the early stages of permit issuance, LMAPCD noted that less than 10 percent of the applications submitted by the sources contained enough information for the permit to be created without contacting the source for additional information. The major items lacking in these applications were an unclear potential to emit, not enough monitoring and a failure to include the emission calculations. To improve the quality of applications received from the sources, the LMAPCD has made complete applications a topic of ongoing discussion during their compliance monitoring strategy activities. To date, the LMAPCD has issued 93 percent (38 out of 41 total) of their initial title V permits. Of the three remaining permits to be issued, Rohm and Haas has never gone to public notice, American Synthetic Rubber has gone to public notice once and is now delayed, and General Electric has gone to public notice twice and is ready to go to public notice again. LMAPCD indicated that one of the causes for the delay in the issuance of these three permits, aside from the lack of trained staff, is that the agency gives priority to the most significant permitting needs which frequently focus on construction permits.

In instances where a significant amount of time occurs between application submittal and drafting a permit, LMAPCD requires that the application be updated. LMAPCD does not require a new compliance certification to be submitted but does verify whether the source is in compliance. In cases where the facility is out of compliance, LMAPCD sets specific dates and milestones for returning the facility to compliance within the permit.

To improve permit writing and reduce processing time, LMAPCD has expressed a desire to keep staff once they are trained, but no initiatives related to staff retention have been implemented. This has left the LMAPCD with an inability to retain their permit writers. At the time of the evaluation, LMAPCD's process of quality assuring their permits consisted of their sole permit

writer having his permits reviewed by the air pollution control officer (APCO). Once additional engineers are sufficiently trained to write permits, the current permit writer will shift to "senior permit writer" and provide an initial review of all permits prior to the review by the APCO.

LMAPCD has made specific efforts to streamline their permits by streamlining multiple applicable requirements on the same emission units by grouping similar units and listing the requirements of only the most stringent applicable requirement.

LMAPCD prepares a statement of basis (SOB) and/or factual and legal basis for each title V permit processed. The SOB contains all the justifications for the permit conditions. In order to ensure consistency in developing the SOB, LMAPCD has provided examples available on the website to all permits writers demonstrating the necessary content of the SOB. LMAPCD works to ensure that each SOB explains, at a minimum, the rationale for monitoring as well as applicability decisions and any exemptions.

In discussing the overall strengths and weakness of the format of title V permits, LMAPCD believes that the format of the title V permits is a strength of the program. LMAPCD believes that the current format allows for the presentation of all of the permitting requirements in a very clear and organized format.

## **B. General Permits**

LMAPCD does not issue any general permits for title V sources, but their regulations do not prohibit the issuance of general permits.

## **C. Monitoring**

In order to ensure that its operating permits contain adequate monitoring, LMAPCD has developed guidance consisting of standard conditions for most regulations that they permit. LMAPCD provides on the job training to all of their permit writers on monitoring, but they also attend EPA sponsored training and Air Pollution Training Institute (APTI) telecourses when available. On approximately 80 percent of the permits LMAPCD issues, additional monitoring is included which is not covered by the underlying requirements. LMAPCD believes these efforts to ensure adequate monitoring have led to better source compliance.

## **D. Public Participation and Affected State Review**

LMAPCD's current policy is to proceed to the 30 day public notice period once the permit is in a final draft form. Louisville has a local publication, the Louisville Courier-Journal, that they use for publishing all of their public notices. The cost to publish a public notice is typically 500 dollars. To reduce the expense of each public notice action, LMAPCD will often detail multiple permitting activities within the same notice. LMAPCD also maintains a mailing list to notify any persons interested in title V permits. Anyone interested in being on this mailing list can submit a request by email or mail to the engineer manager or the assistant director of LMAPCD to be included. There is no fee charged for inclusion. New names are listed within the week of the

request. Persons on the mailing list receive a copy of the draft permits, SOBs and/or a notice directing them to the LMAPCD website for additional information. LMAPCD's website includes the draft permit, public notice, SOB and a link for public information on the citizen's title V tutorial. In order to help the public determine when the 60 day citizen petition clock begins, LMAPCD has agreed to include language within all title V public notices referring the public to EPA Region 4's website.

LMAPCD has reached out to the Rubbertown community beyond the traditional public notification process. LMAPCD conducted three citizens training courses to help the public learn how to participate in the title V process including one session that was jointly conducted by LMAPCD and EPA.

Upon request, copies of any additional information relative to the permit action are sent at no charge, as long as the additional information requested is for an open permit. However, if the information requested is for a closed permit, the person is charged 10 cents a sheet for the entirety of the additional information. The fee is waived if the total cost of the requested information is less than five dollars. During the public comment period, persons desiring to see the application or the permit may request to do so with a phone call, but for other public records such as deviation reports, compliance certifications, etc., LMAPCD requires the interested party to submit an "Open Records" law request and LMAPCD will respond within three days. One of the purposes of the three day period is to allow for LMAPCD to contact the source and have someone from the source come to the LMAPCD office and indicate what information should be treated as confidential business information (CBI) to ensure that no CBI is accidentally released.

LMAPCD believes that the most effective avenue for public notice has been the joint use of the website and the local paper. LMAPCD has been able to meet all public information requests in a timely manner. At the time of the evaluation, LMAPCD had never extended the public comment period due to information requests, but does have the regulatory flexibility to grant an extension. Additionally, LMAPCD has never held a public hearing. In the event that LMAPCD holds a public hearing, all comments are required to be submitted no later than the public hearing, which usually would be scheduled at the end of the comment period. EPA suggests that LMAPCD consider extending the comment period for a few days after the hearing, to allow the public an opportunity to digest the information presented at the hearing and decide if they still wish to provide comments. LMAPCD does not provide notices in any language other than English.

LMAPCD has received public comments on approximately 75 percent of title V permit actions. Most of these comments are from the companies being permitted. Most of these comments are items already discussed with the source, but the source would like to get their comments included as part of the official record. LMAPCD has received comments from the general public on only one source, American Synthetic Rubber. Approximately five to ten percent of the comments received result in a change to the permit. LMAPCD has not noticed a pattern in the comments received on permits, with the exception that chemical sources and sources in the Rubbertown area tend to generate the most comments. In the event that a permit receives comments that result in a relaxation to the draft permit, or if a significant change were made (e.g., from compliance to non-compliance), LMAPCD would then re-propose the permit.

LMAPCD notifies all affected states (Kentucky and Indiana) of every public notice by letter. There are no tribes close enough to LMAPCD to qualify as affected. LMAPCD has received comments from an affected state on one permit and made changes to the permit based on those comments.

#### **E. Permit Issuance/ Revision/ Renewal**

LMAPCD received full approval of their title V program on April 22, 1996 and has issued 93 percent of their initial title V permits. This reflects a serious programmatic failure to meet the federal deadline of having all initial title V permits issued within three years of program approval. During the 2003 fiscal year, EPA sent a letter to Louisville requesting an update on the status of their initial issuance of title V applications and if they would not have them issued by December 31, 2003, to include a timeline indicating when they would complete issuance of their final permits. Louisville responded that they would have all of their permits issued by December 2003 and did not need to include a timeline. At the time of this program evaluation, Louisville has failed to issue three permits from their initial issuance and was unable to indicate when these permits would be issued. EPA is requesting a written timeline detailing when these permits will be issued.

LMAPCD is not meeting minimum timeframes established for processing permit revisions. LMAPCD has developed such an extensive backlog of permitting actions that they have not completely processed a single significant modification. Their current plan is to utilize their construction permit program to allow the sources to begin implementing modifications to the facility and then submit the necessary information after completion of the construction to allow the LMAPCD the maximum amount of time to process the significant modification. As a point of clarification, 40 CFR part 70.7(e)(4)(ii) states that although the permitting authority may take up to 18 months to complete the significant modification, the majority of the significant permit modifications received by the permitting authority must have completed the review process within 9 months. Even with this process, LMAPCD has failed to meet the maximum time frame allotted of eighteen months to complete the issuance of the significant modification permits. LMAPCD currently has approximately 34 significant modification applications in house, waiting to be processed. In at least one instance on record, a significant modification application has been on file with the LMAPCD for over three years and has not been processed.

LMAPCD has also failed to meet the minimum allotted time frames for processing administrative permit revisions. 40 CFR part 70.7(d)(3)(i) establishes that a permitting authority may take no longer than 60 days to complete an administrative permit amendment. LMAPCD has greatly exceeded this time frame and estimates their minimum time for processing administrative permit amendments is six months. This has led to LMAPCD having an estimated 60 administrative permit amendments in house waiting to be processed. LMAPCD reports that a shortage of permitting staff has not allowed them to allocate the time necessary to create any guidance to assist permit writers to determine if a permit revision is administrative, significant or minor. The creation of such a document could help streamline the process of completing these revisions.

LMAPCD has received eight title V renewal applications and has found most of them to be timely. One renewal application was received one day late. LMAPCD has not yet started the completeness review for these applications. EPA has concerns about LMAPCD's reported inability to process these renewals within the allotted time frame of 18 months as required by 40 CFR part 70.7(a)(2).

#### **F. Compliance**

LMAPCD has developed a separate compliance certification used by all sources, based on whether compliance is continuous or intermittent. LMAPCD requires all deviations from title V permit requirements to be reported prior to the semi-annual monitoring report unless specifically exempted in the permit. Some deviations may be reported immediately by phone, but the source is required to submit a follow-up written report within two business days. LMAPCD requires all deviation reports (LMAPCD uses the term "upset reports") to be certified by a responsible official with the exceptions of deviations that occur during startups, shutdowns or malfunctions. LMAPCD defines deviation as an exceedance of the standard or an excursion from the monitoring range of parameters. Each deviation report must contain the probable cause of the deviation, corrective actions taken, and the magnitude and duration of the deviation. LMAPCD's stated goal is to review 100 percent of all deviation reports, semi-annual monitoring reports, and annual compliance certifications. Currently LMAPCD is falling far short of this goal. LMAPCD reported that due to an employee shortage, they are unable to review any of the deviation reports submitted by the sources. At the time of the evaluation, LMAPCD had over 1000 unprocessed deviation reports on file. Some of these reports detail violations which require enforcement action, but LMAPCD does not have the manpower to dedicate to addressing these violations. EPA is concerned that LMAPCD may be unable to enforce the requirements of the title V program they operate. LMAPCD needs to develop a plan to ensure that adequate and timely reviews of all deviation reports occur.

#### **G. Resources and Internal Management Support**

LMAPCD has developed a one step career ladder for permit writers. Engineers are classified as engineer 1 unless they receive a promotion to engineer 2. LMAPCD has two engineer 2 positions and they are competitively filled and not automatic for each engineer based upon the engineer completing a certain list of requirements (such as passing the Engineer in Training (EIT)). A promotion from engineer 1 to engineer 2 includes a salary raise of \$3,000.00. Once hired, all employees are bound to their starting salary unless the Louisville Metro Council issues "cost of living" pay increases. These increases generally occur on the rate of two percent every two years. While it has been discussed, LMAPCD has not established a "technical expert" career ladder with salary step increases based upon the engineer meeting a specific list of requirements. LMAPCD has been limited in its hiring practices by not being allowed to offer salaries competitive with many other agencies and a failure to hire experienced staff, due to an inability to offer them salaries commensurate with their work experience levels. However, this appears to be an unwritten practice rather than a regulatory requirement. LMAPCD has a current salary range of \$32,323 to \$51,084 for all permit engineers and theoretically could hire new employees at any salary within that range. It has been the practice of the LMAPCD, when hiring engineers



with limited work experience, to start them at the bottom of the wage scale but there is no county or state regulation that limits them to hiring at that level.

LMAPCDs title V staff has to balance their title V workload with competing work duties such as construction permits, synthetic minor program, regulation development, enforcement, and compliance activities. At the time of title V program implementation, Louisville dedicated 18 staff to work with the program. At the time of this evaluation, staff positions have been cut by 28 percent (5 positions). EPA is concerned about the effect this reduction in staff has had on being able to decrease the backlog of permitting actions. EPA would like to gain LMAPCD's perspective on the reasons for reducing the personnel in title V.

Additional information gained during the program evaluation shows that of the 13 positions allocated to the stationary group, three are vacant, and six are filled by employees with one year or less experience working with LMAPCD. An almost 75 percent staff turnover in one+ year makes it impossible to obtain the necessary degree of skill within the staff to adequately implement an effective title V program. Despite this rate of staff turnover, LMAPCD indicated that no significant attempts had been made by the agency to slow down the turnover. Another area that causes EPA concern is LMAPCD's permit to employee ratio. During the evaluation, it was noted that LMAPCD currently has three employees on staff responsible for creating over 300 construction permits and one employee responsible for all 43 of the title V sources that LMAPCD is required to issue permits. That ratio of staff to permits is excessive. As a comparison, Kentucky Department of Air Quality has a ratio of approximately 30 permits to each permit writer. 40 CFR part 70.4(b)(8) requires all title V agencies to provide adequate staff to "develop, administer and enforce the program." Management is kept abreast of permit issuance by checking the LMAPCD web site.

LMAPCD, has developed a comprehensive training program that provides six months on the job training before the new hire is able to process minor source permits. After an additional six months of training the new employee is generally able to process a less complex title V permit and it generally takes two years of training before an employee is capable of writing a more complex title V permit.

It appears that a large portion of LMAPCD's inability to meet the regulatory deadlines in permit issuance and take timely enforcement actions stem from an inability to hire and retain staff. EPA understands that LMAPCD chooses to hire engineers with a salary from the lower portion of their salary range which could be a contributing factor in the inability to retain staff. EPA also is aware that LMAPCD has no method to provide in-grade salary increases to employees, other than the occasional cost of living increase. However, LMAPCD needs to be aware that these issues are not a valid reason for failure to meet the requirements of 40 CFR Part 70.

Although LMAPCD does not have an Environmental Justice (EJ) policy, they do employ an in-house coordinator charged with oversight of EJ related activities.

## **H. Title V Benefits**

LMAPCD believes that they have gained significant benefits as a result of the title V program. LMAPCD believes that since they began to implement the title V program, the title V staff has gained a better understanding of the stationary source requirements in the State Implementation Plan and a better understanding of how to write enforceable permit terms. Other benefits of the title V program brought about from the title V fee money include better training and a stable funding source despite fluctuations in other state programs. Additionally, LMAPCD has received positive feedback from both industry and citizens on the benefits of title V. The benefits include that all the applicable requirements for a source can be found in one document.

## **2. Permit Reviews**

EPA focused its reviews on files of permits that previously received comments from EPA, synthetic-minor permitting actions, renewals (particularly applications), and sources subject to Compliance Assurance Monitoring (CAM.) Overall, EPA reviewed the files of five (5) permits.

The primary reasons for targeting files of permits that previously received EPA comments were not only to ensure that the permitting authority adequately addressed EPA's comments, but also that the respective files were complete, particularly with respect to the correspondence history between EPA and the permitting authority. Of the files reviewed, all appeared to be incomplete to some degree. Not only were instances of the failure to include EPA's comments in the record noted, but also the failure to file the permitting authority's responses to such comments. Furthermore, in another instance, the permitting authority did not include the calculations necessary for verifying that a source indeed avoided being subject to a particular maximum achievable control technology (MACT) standard. Although the permitting authority was able to eventually provide (or produce) these documents within a relatively short time frame following EPA inquiry, it was apparent that the general maintenance of permit files has not been a priority and, as a result, has become a systemic problem. Nonetheless, on a positive note, the reviews have also shown that the permitting authority does ultimately address the concerns presented by EPA.

Reviews of the files of synthetic-minor permitting actions raised significant concerns, particularly related to practical enforceability. For instance, although a particular surface-coating facility appeared to be subject to the appropriate recordkeeping requirements (e.g., coating/solvent usage, coating/solvent volatile organic compound (VOC) content, etc.), the permitting authority failed to expressly state in the permit the appropriate methodology (i.e., a mass balance equation) for demonstrating compliance with the major-source avoidance limit for VOC. After informing the permitting authority of this particular issue of practical enforceability (or lack thereof), EPA was made aware of the very likely existence of other such sources, particularly if their respective permits were issued during the same time frame as the source described above. Thus, there appears to be a systemic problem with respect to the issuance of synthetic-minor permits that lack practical enforceability.

EPA was unable to review the files of any renewals or CAM-subject sources since the permitting authority has yet to initiate such permitting actions.

### **Suggested Improvements**

Based on the findings discussed above, EPA makes the following recommendations:

- Section 503(c) of the Clean Air Act established a three year timeframe, beginning upon program approval, for a title V program to approve all of its initial issuance title V applications. LMAPCD received full approval of its title V program on April 22, 1996, and was required to have its full complement of initial applications approved by April 22, 1999. LMAPCD has three initial title V sources still awaiting their initial title V permits. LMAPCD needs to develop and submit to EPA a timeline detailing when the final three initial title V applications will be released as draft permits for public notice and when Louisville anticipates having the final permits issued. EPA realizes that the submitted timeline may vary due to the potential of issues arising during the process but believes it is important to get established written timeframes for completing these permits.
- 40 CFR part 70.7(e)(4)(ii) states that although the permitting authority may take up to 18 months to complete the significant modification, the majority of the significant permit modifications received by the permitting authority must have completed the review process within 9 months. LMAPCD currently has approximately 34 significant modification applications in house waiting to be processed. Most of these permit modifications have already exceeded the 18 month timeframe. LMAPCD needs to develop a plan to eliminate this backlog of significant modifications and create a process to ensure that the part 70 timeframes are met for all future significant modifications.
- 40 CFR part 70.7(d)(3)(i) establishes that a permitting authority may take no longer than 60 days to complete an administrative permit amendment. LMAPCD has greatly exceeded this time frame and estimates their minimum time for processing administrative permit amendments is six months. EPA recommends the creation of a guidance document to assist permit writers to determine if a permit revision is administrative, significant or minor. The creation of such a document could help streamline the process of completing these revisions.
- At the time of the evaluation, LMAPCD reported over 1000 unprocessed deviation reports on file. Some of these reports detail violations, which require enforcement action, but LMAPCD does not have the manpower to dedicate to addressing these violations. EPA is concerned that LMAPCD is operating a title V program and unable to enforce the requirements of the program. LMAPCD needs to develop a workplan to ensure that adequate and timely reviews of all deviation reports occur.

- Information gained during the program evaluation shows that LMAPCD has experienced a staff turnover rate of almost 75 percent, in the past one+ year, within the title V section. 40 CFR part 70.4(b)(8) requires all title V agencies to provide adequate staff to “develop, administer and enforce the program.” EPA recommends that LMAPCD develop a plan to ensure that they have adequate trained staff at all times.

## **New Source Review (NSR) Program Review**

On March 15, 2005, the Region 4 office of the U.S. Environmental Protection Agency (EPA) conducted a review of the Louisville Metro Air Pollution Control District (LMAPCD) new source review (NSR) permit program. The NSR program review consisted of administering a questionnaire developed for EPA's national NSR program review project.

LMAPCD has not issued a major source NSR permit (either attainment or nonattainment NSR major source permit) in several years. Therefore, no major source NSR permits were available for review either prior to or during the visit. Instead, Region 4 reviewed two minor source NSR permits during the visit.

Because LMAPCD has not issued any major source NSR permits in recent years, administration of the major NSR portion of the NSR program evaluation questionnaire was of necessity based on LMAPCD's expected permitting practices should an application be received for a new major source or a major modification, and not on actual permitting experience. Despite the lack of direct permitting experience, the LMAPCD representatives present during the evaluation interview were knowledgeable of attainment and nonattainment major NSR permitting requirements.

The primary EPA staff person conducting the review was Jim Little from Region 4's Air Permits Section. Region 4's Art Hofmeister participated in the review of minor NSR permits. LMAPCD's participants were Jesse Goldsmith, Eva Addison, and Steve Taylor.

LMAPCD has a SIP-approved NSR program with its own NSR rules. LMAPCD therefore has authority to issue both major and minor NSR permits. Because Jefferson County, Kentucky, has been and continues to be an ozone nonattainment area and is also a PM<sub>2.5</sub> nonattainment area, the applicable major NSR permitting regulations are the regulations for prevention of significant deterioration (PSD) and the regulations for nonattainment areas. However, as previously indicated, LMAPCD has not had to process any major nonattainment NSR permits in recent years.

LMAPCD's personnel for air permitting reside in a single office in Louisville, and all NSR permits are processed in this office. LMAPCD's NSR permitting jurisdiction covers all of Jefferson County.

LMAPCD has not yet developed NSR rule revisions in response to the federal NSR rule revisions of December 2002. Development and implementation of NSR rule revisions by LMAPCD may lead to changes in NSR construction permitting procedures. In addition, pending rule changes for Louisville's Strategic Toxics Air Reduction (STAR) initiative may affect construction permitting. Further regarding NSR rule revisions, EPA stated that conducting workshops on NSR rule revisions would be beneficial for both LMAPCD and regulated sources.

The headings in the following report duplicate the headings in the NSR program review questionnaire administered during the visit.

As an appreciated aid to EPA, LMAPCD provided a copy of the program review questionnaire annotated with LMAPCD's answers. For many questionnaire items, the answers provided by LMAPCD are more detailed than indicated in the summary discussion below. The answered questionnaire from LMAPCD will be on file at EPA Region 4 for reference if needed.

## **Common Program Requirements (PSD and Nonattainment NSR)**

### **A. Netting**

LMAPCD would follow netting procedures that are consistent with EPA policy and guidance if such a permit were to be reviewed and issued. Relevant information for netting includes the Louisville banking "ledger" program that remains in effect. Pollutants in the ledger are volatile organic compounds and nitrogen oxides that were updated in 1999, plus older information for sulfur dioxide, particulate matter, and carbon monoxide.

### **B. Routine Maintenance, Repair and Replacement (RMRR)**

The LMAPCD representatives interviewed during the visit could not recall any examples of formal RMRR determinations made by LMAPCD. However, LMAPCD is familiar with EPA's RMRR policies. When asked if LMAPCD provides public outreach training on RMRR or other NSR regulatory topics, LMAPCD replied that the agency does not have sufficient staff time and financial resources to conduct regulatory update outreach workshops for regulated sources. EPA pointed out that workshops can be restricted to specific topics and need not be burdensome from a time or cost standpoint. In addition, EPA may be able to provide assistance in preparing workshop presentation materials.

### **C. Synthetic Minor Limits**

LMAPCD's computerized permits inventory system does not currently have the ability to list out permits specifically related to NSR such as PSD avoidance and NSR net-out permits. Adding a permit-type identifier to the thousands of previously issued permits would not be possible with current staff resources. However, LMAPCD expressed its intent to add a flag identifying the type of permit when future permits are added to the inventory.

### **D. Pollution Control Projects (PCP) Exclusion**

LMAPCD's NSR rules do not incorporate the PCP exclusion for any source category, not even for electric utility steam generating units as in the older federal NSR rules on which LMAPCD's current rules are modeled. Therefore, any PCP exclusion determination would have to be made on a case-by-case basis. If a proposed PCP involved collateral increases in emissions of hazardous air pollutants, the requirements of LMAPCD's pending STAR rules might apply.

### **E. Fugitive Emissions**

LMAPCD's definition corresponds to the federal rule definition of fugitive emissions. Fugitive emissions would be considered in NSR applicability assessments for both new sources and modifications of existing sources, but only if the source is in one of the listed source categories.

### **F. Modeling**

Due to the lack of major NSR permits, LMAPCD has not had the need to develop modeling expertise specific to NSR permitting. One staff person has general modeling capability, but not necessarily detailed NSR modeling capability. Should major NSR modeling capability be needed for a future project, EPA can assist the LMAPCD modeler.

EPA asked if the nearest NSR reviewing authorities (the state authorities for Kentucky and Indiana) ever asked LMAPCD for emissions inventory data to be used for NSR modeling purposes. LMAPCD replied that Kentucky has requested inventory data, but Indiana has not. LMAPCD stated that the emissions data in their database represent actual emissions from an annual inventory.

### **G. Stationary Source Determinations**

One of the criteria for deeming two or more facilities to be part of the same stationary source is that the facilities must be contiguous or adjacent. LMAPCD would review separation distance on a case-by-case basis to assess whether two or more facilities in Jefferson County are adjacent. The support facility concept would also be taken into account in a same source determination.

### **H. Debottlenecking and Increased Utilization**

LMAPCD would compare past actual to future potential emissions when adding the effect of a debottlenecked unit in an NSR applicability determination. In practice, however, LMAPCD has not had to make a determination in several years for a project involving debottlenecked or increased utilization units.

### **I. Relaxation of Limits Taken to Avoid Major NSR**

As with several other topics, LMAPCD is knowledgeable about the relaxation concept but has had little recent experience in applying the concept.

### **J. Circumvention/Aggregation Issues**

LMAPCD is knowledgeable about the topic and mentioned one review of a project involving phased or sequential changes.

## **Prevention of Significant Deterioration (PSD)**

### **A. Program Benefits Quantification**

LMAPCD believes the PSD program to be of benefit but, again, has not had experience in recent years with projects subject to PSD review.

### **B. Best Available Control Technology (BACT)**

LMAPCD understands BACT requirements, but lacks experience in actual BACT evaluations. LMAPCD's discussion of BACT assessment principles indicates consistency with EPA practice and policy.

### **C. Class I Area Protection for PSD Sources**

LMAPCD has not reviewed any recent projects requiring a Class I impact assessment.

### **D. Additional Impacts - Soils, Vegetation, Visibility, Growth**

LMAPCD has not reviewed any recent projects requiring an assessment of soils, vegetation, visibility, and growth impacts.

### **E. Pre-construction Monitoring**

One project a few years ago resulted in a requirement for pre-construction and post-construction ambient carbon monoxide monitoring.

### **F. Increment Tracking Procedures**

LMAPCD is not tracking increment consumption.

### **G. Endangered Species Act (ESA)**

LMAPCD has a SIP-approved NSR permitting program. ESA requirements are not applicable.

## **Nonattainment NSR**

Jefferson County was at one time nonattainment for the 1-hour ozone standard, then achieved attainment, then was designated nonattainment for the 8-hour ozone standard on June 15, 2004. Jefferson County was also designated nonattainment for PM<sub>2.5</sub> on April 5, 2005. As previously discussed, LMAPCD has not had to process a major nonattainment NSR permit in the last several years. LMAPCD's answers to nonattainment NSR questions were therefore in terms of expectations and not experience.



### **A. Program Benefits**

LMAPCD believes that the nonattainment NSR program provides an incentive to reduce emissions.

### **B. NSR Offsets**

LMAPCD has an emissions offset bank. Credits added to the bank do not expire.

### **C. LAER Determinations**

LMAPCD has not had to issue a major nonattainment NSR permit in recent years and therefore has not yet had to apply specific LAER determination procedures. In addition to reviewing major source LAER information in the RACT/BACT/LAER Clearinghouse, LMAPCD would also expect applicants for a major nonattainment NSR permit to consider technologies in use at minor sources as well.

### **D. Alternatives Analysis**

At such time that an alternatives analysis might be required for a specific project, EPA encouraged LMAPCD to include environmental justice considerations in the analysis.

### **E. Compliance of Other Major Sources in the State**

LMAPCD would require applicants to meet this requirement.

## **Minor NSR Programs**

### **A. NAAQS/Increment Protection**

Modeling of minor sources is not required.

### **B. Control Requirements**

LMAPCD's rules contain a "best available control technology" (BACT) requirement for new minor sources and minor modifications of existing sources. For example, a cumulative increase in volatile organic compounds emissions of 5 tons per year or more would trigger the minor BACT requirement. LMAPCD's procedural requirements for such BACT assessments is comparable to EPA's BACT requirements for PSD projects, including use of the top-down approach.

### **C. Tracking Synthetic Minor NSR Permits**

As discussed above, LMAPCD plans to include a method of marking synthetic minor permits in its emissions inventory database.

## **Public Participation**

### **A. Public Notification**

LMAPCD issues or would issue public notices for new major source NSR projects (attainment or nonattainment), major modifications, synthetic minor permits, and permits for projects using netting to avoid major NSR. Public notice includes notification to the Kentucky and Indiana state reviewing authorities. A single request for a public hearing would cause a hearing to be held. Notifications are made by newspaper.

### **B. Environmental Justice (EJ)**

EJ considerations for Louisville projects are discussed in the title V program review section elsewhere in this report.

## **Program Staffing and Training Issues**

As of the time of the review, LMAPCD had five people involved in some aspect of NSR. No in-house NSR training is provided.

## **General NSR Program Issues**

LMAPCD requires that source owners obtain a construction permit for any replacement of an emissions unit regardless of the reason for a replacement. This requirement precludes a source owner from claiming that a project is for a "like kind" replacement and should not require a permit.

LMAPCD evaluates use of emission factors (including AP-42 factors) based on case-by-case reviews and advice from EPA.

During the preceding year, LMAPCD issued between 50 and 75 non-major permits. (The exact number is not easily retrievable from LMAPCD's database.) No PSD or major nonattainment NSR permits were issued.

LMAPCD requires consideration of condensable particulate matter for NSR applicability assessments.

## **Effective Construction Permits**

EPA reviewed two minor NSR permits as part of the NSR program evaluation. One was a PSD avoidance permit and the other was a permit for a project that netted out of PSD review. LMAPCD is knowledgeable of the general requirements needed to create enforceable permits of this type. Based on review of these permits and other experience, EPA Region 4 concludes that LMAPCD creates effective minor source construction permits with appropriate permit conditions.

## **Suggested Improvements**

Based on the findings discussed above, EPA makes the following recommendations:

- We recommend that LMAPCD follow through with the idea of adding a flag in the permits inventory database to identify the type of permit when new permits are added to the database.
- Recognizing LMAPCD's staff and financial resource limitations, we still encourage LMAPCD to conduct occasional limited scope workshops for public outreach purposes. One or more workshops would be especially helpful when LMAPCD implements NSR rule revisions.

## **Conclusion**

At the conclusion of the onsite portion of the Title V and NSR program reviews, Region 4 personnel met with key LMAPCD officials to conduct an exit interview. During this exit interview Region 4 shared the findings of the review and laid out a timeframe for when the final report would be completed. Personnel in attendance from EPA Region 4 were Randy Terry, Art Hofmeister, and Kay Prince. Gregg Worley of EPA Region 4 participated by phone. LMAPCD officials in attendance included Eva Addision, Jess Goldsmith, Lauren Anderson, Steve Taylor and Jon Trout.

Overall, EPA believes that LMAPCD must demonstrate significant improvement to meet many of the requirements for implementation of the title V program. Specific areas that must be improved include: (1) the completion of the three remaining initial title V applications; (2) a plan to meet the regulatory deadlines for addressing all significant and administrative permit revisions; (3) a plan to ensure adequate and timely reviews for all deviation reports; and (4) a plan to ensure that sufficient trained staff is available to meet the requirements of 40 CFR part 70. EPA will lay out in separate correspondence the specific next steps that will be needed to address these significant findings.

Although the NSR program has not processed a major NSR permit recently, the staff appear to be knowledgeable of the necessary requirements for successful implementation.

